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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,235	04/30/2001	David Vardi	P/1318-128	3884

2352   7590   06/21/2004

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER
COURTENAY III, ST JOHN

ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>30 April 2001</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-19</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) <u>1-5,14,18 and 19</u> is/are rejected.
7) ☒ Claim(s) <u>6-13 and 15-17</u> is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on <u>30 April 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____.
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

ST. JOHN COURTENAY III
PRIMARY EXAMINER

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 14, 18 & 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wyman (U.S. Patent 5,260,999).

As per independent claim 1:
Wyman teaches a computer-based system that correlates process-related data with license use data reflecting use of software products, the system comprising:

- a process-related software facility that collects and stores computer-based and process-related data that is constituted of <u>one or more</u> data fields selected from a data field group consisting of: job-name; job-id; LOS-id; "accounting" information applicable to a job; job-step-id; user-id; <u>processing-program names</u>; and lists of libraries, files or databases used by a process [e.g., see "The license server 10, using the license management program 11, maintains a license data file 23 comprising a number of license documents or licenses (product use authorizations), and also maintains a log 24 which is <u>a record of the usage activity of all of the user CPUs 16</u> of each of the licensed programs. The delegatee servers 13 would maintain similar license databases and logs." and associated discussion col. 10, line 10];

- a license manager that manages the grant of license use rights to a plurality of software products and which collects and stores data reflecting the use of the software products in the form of software product use data [see License

Management Server 10, col. 10, discussion beginning line
30]; and

- a correlator that correlates the software product use data
  with the process-related data and creates records that
  reflect the use of the software products related at least in
  part to the process-related data [e.g., see "log 24" which is
  a record of the usage activity of all of the user CPUs 16 of
  each of the licensed programs and associated discussion col.
  10, line 33; see discussion of consumption unit based license
  or "metered" software usage, col. 15, lines 42-64].

As per dependent claim 2:
Wyman teaches the system is configured so that the software
products are represented as a plurality of software clients and the
license manager is configured as a license manager server [see
License Management Server 10, col. 10, discussion beginning line
30].

As per dependent claim 3:
Wyman teaches a facility that creates a token upon a request by
a software client to obtain a license certificate to permit execution
thereof [e.g., see "product use authorization" issued by the issuer
25 and associated discussion col. 11, line 10, line 13, line 23, line
43, line 54; see also "token" col. 12, line 57; see use of optional
"token" field 52, col. 14, line 12].

As per dependent claim 4:
Wyman teaches a facility that creates a license dialogue id (LDI)
that identifies a current licensing session at the license manager
[e.g., see "PUA" identifying tag and associated discussion
beginning col. 11, line 65; see also discussion of LURDM tag
(license use requirements determination method), col. 12, line
39].

As per dependent claim 5:
Wyman teaches further including a facility that correlates the use of tokens with the LDIs and creates matching records reflecting the same [e.g., see "product use authorization" issued by the issuer 25 and associated discussion col. 11, line 10, line 13, line 23, line 43, line 54; see also "token" col. 12, line 57; see use of optional "token" field 52, col. 14, line 12].

As per dependent claim 14:
Wyman teaches a facility that creates a license dialogue id (LDI) that identifies a current license session at the software client [see context field 44 that specifies the location and environment in which product user or license management occurs, i.e., a CPU or an individual user or a network, col. 12, lines 45-48; see also the fields under the Product Use Authorization (i.e., in particular the Licensee, LURDM, and LURT fields) as shown in fig. 2, and discussed in col. 11, beginning line 54; the "issuer 24" is the facility that creates or grants the license that is called a Product Use Authorization – see col. 11, lines 4-15].

As per dependent claim 18:
Wyman teaches the correlator uses the user-id field of the process-related data to correlate license dialogues with job processing information [see use of optional "token" field 52, col. 14, line 12].

As per dependent claim 19:
Wyman teaches the correlator bases its correlation function on one or more parameters selected from the group including: logical operating system pertaining to different data; source of process-related data; time-stamps attached to data records and

user-id [see "exact time" of license grant associated with a owner col. 12, lines 18-22, see also line 26, i.e., "time value".

Allowable Subject Matter:
Dependent claims 6-13 & 15-17 appear to be allowable over the prior art of record if rewritten to include all of the limitations of the base claim and any intervening claims, subject to the results of a final search. These claims stand objected to as being dependent upon a rejected base claim.

The prior art of record does not teach nor fairly suggest the use of tokens created by a client exit routine (CER) [claim 6].

The prior art of record does not teach nor fairly suggest the use of tokens that are created by reference to a logical operating system (LOS) [claim 8].

The prior art of record does not teach nor fairly suggest the use of LDIs (license dialog IDs) that are created by a server exit routine (SER) which creates SER data and wherein process-related information and corresponding tokens are stored in a client logical log (CLL) [claim 9].

The prior art of record does not teach nor fairly suggest the use of including a client exit routine (CER) which creates CER data, including the tokens, and including a server exit routine (SER) which creates SER data, including a license dialogue id (LDI) [claim 11].

Prior Art not relied upon:
Please refer to the references listed on the attached PTO-892 which are not relied upon in the claim rejections detailed above.

How to Contact the Examiner:

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **St. John Courtenay III** whose voice telephone number is **(703) 308-5217.** A voice mail service is also available at this number.   Normal Flex work schedule: M – F   7:30 AM - 4:00 PM

- **All responses sent by U.S. Mail should be mailed to:**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Patent Customers advised to FAX communications to the USPTO

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/faxnotice.pdf

Effective Oct. 15, 2003, ALL patent application correspondence transmitted by FAX must be directed to the new PTO central FAX number:

**NEW PTO CENTRAL FAX NUMBER:
703-872-9306**

- Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: (703) 305-3900.**

**Please direct inquiries regarding fees, paper matching, and other issues not involving the Examiner to:
Technical Center 2100 CUSTOMER SERVICE: 703 306-5631**

The Manual of Patent Examining Procedure (MPEP) is available online at:
http://www.uspto.gov/web/offices/pac/mpep/index.html

ST. JOHN COURTENAY III
PRIMARY EXAMINER